

Our File No. 201842

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF NEW JERSEY**

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ANTONIO OLIVEIRA

Plaintiff,

-against-

U.S. XPRESS INC., DON LYNN BARBEE  
And JOHN DOES 1-10 unknown Individuals  
responsible for the Accident In question

Defendants.

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CIVIL ACTION NO.:

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF JERSEY:

Defendants, U.S. Xpress, Inc., by and through its attorneys, Salmon Ricchezza Singer & Turchi, LLP, respectfully aver as follows:

1. At all material times plaintiff, Antonio Oliveira, was and is a citizen of the State of New Jersey. (See Exhibit "A"- Plaintiff's Complaint).

2. At all material times, defendant, U.S. Xpress, Inc. was and is a corporation organized under the laws of the State of Nevada, with its principal place of business in Tennessee.

3. At all material times, defendant Don Lynn Barbee, was and is a citizen of a Baltimore, Maryland.

4. Plaintiff commenced a civil action against defendants in the Superior Court of New Jersey, Union County, on or about October 3, 2017. Defendant, U.S. Xpress, Inc. received a copy of Plaintiff's Summons and Complaint on October 10, 2017. Upon information and

belief, defendant, Don Lynn Barbee, has not been properly served. Therefore, this removal is timely filed.

5. A review of plaintiff's Complaint reveals that it did not contain an Ad Damnum clause. However, that plaintiff alleges:

Plaintiff was caused to sustain severe injuries; he was caused to suffer great pain and anguish and will in the future continue to endure great pain and suffering; he was caused to incur medical expenses and will in the future continue to incur medical expenses. (Exhibit A – Plaintiff's Complaint, Count 1, Paragraph 3)

Plaintiff was caused to suffer injuries; he was caused to suffer great pain and will be caused to suffer great pain in the future; he was caused to incur medical expenses and will be caused to incur medical expenses in the future; and he was caused to suffer permanent injury (Exhibit A – Plaintiff's Complaint, Count 2, Paragraph 3)

6. Accordingly, plaintiff has set forth a claim in which an amount in excess of the jurisdictional limit of \$75,000, exclusive of interest and costs, may be at stake.

7. Although Defendant, has been unable to confirm whether Don Lynn Barbee has been properly served, through counsel, herein consents to this removal.

8. Diversity of citizenship within the meaning of 28 U.S.C. §1332 exists between plaintiff and defendants since:

(a) At all material times plaintiff, Antonio Oliveira, was and is a citizen of the State of New Jersey.

(b) At all material times, defendant, U.S. Xpress, Inc., was and is a corporation organized under the laws of the State of Nevada with its principal place of business in Tennessee.

(c) At all material times, defendant, Don Lynn Barbee, was and is a citizen of Baltimore, Maryland.

9. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446.

**WHEREFORE**, Defendant, U.S. Xpress, Inc., herein prays that the above captioned action now pending in the Supreme Court, Union County, be removed there from to this Honorable Court.

SALMON RICCHEZZA SINGER & TURCHI LLP

By: 

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